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10/046,886	01/15/2002	Alan F. Washburn	31936	2636

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/046,886

Applicant(s)

WASHBURN, ALAN F.

Examiner

Alicia M Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11 and 16-25 is/are rejected.
- 7) ☒ Claim(s) 5, 12-15 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al. '299, hereafter Smith.

Smith discloses a pull-behind mower for cutting ground vegetation, the mower comprising:

A frame (14) adapted to be coupled to a vehicle (12) and rollingly supported on the ground;

A motor (tractor engine, not shown) rigidly coupled to the frame (14);

A mowing deck (70) coupled to the frame (14) for pivotal movement relative to the frame (14) on first and second intersecting pivot axes (see figures 5 and 6); and

A drive train (22) for drivingly coupling the motor to the deck (70) so that the motor powers the deck (70), the drive train (22) including a U-joint (32) that is centered proximate the intersection of the pivot axes, as per claim 7; and

The deck (70) being pivotable relative to the frame (14) on the first pivot axis between a retracted position and an extended position,

Art Unit: 3671

The deck (70) being pivotable relative to the frame (14) on the second pivot axis between an engaged position and a disengaged position,

The first and second pivot axes being at least substantially perpendicular to one another, as per claim 8,

the first pivot axis being generally upright, as per claim 9; and

the deck (70) appearing to pivot through a first pivot angle of more than about 20° when pivoted between the extended and retracted positions,

the deck (70) appearing to pivot through a second pivot angle of more than about 30° when pivoted between the engaged and disengaged positions, as per claim 10; and

a support arm (52) coupled between the frame (14) and the deck (70) and operable to at least partly support the deck (70) relative to the frame (14),

the support arm (52) providing for pivoting of the deck (70) between the extended and retracted positions and the pivoting of the deck (70) between the engaged and disengaged positions, as per claim 11.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roesel in view of Scarborough.

Roesel discloses a pull-behind mower for cutting ground vegetation, the mower comprising:

A frame presenting a fore end (77), an aft end (75), and a pair of laterally spaced sides (at 12 in figure 1);

A hitch assembly (20) coupled to the frame proximate the fore end (77) and adapted to couple the frame to a vehicle (not shown);

A pair of laterally spaced wheels (14) coupled to the frame proximate the aft end (75) and adapted to rollingly support the frame on the ground;

A mowing deck (34) pivotally coupled to the frame and operable to cut the vegetation when positioned proximate the ground, the deck (34) being pivotable relative to the frame between a retracted position wherein the deck (34) is positioned primarily between the laterally spaced sides (12) and between the fore (77) and aft (75) ends, and an extended position wherein the deck (34) is positioned primarily outside the laterally spaced sides (12), as per claim 1; and

Art Unit: 3671

Wherein the deck (34) appears to pivot through a first pivot angle of more than about 20 degrees when pivoted between the extended and retracted positions, as per claim 2; and

The first pivot angle appearing to be more than about 30 degrees, as per claim 3; and

A biasing mechanism (33) for biasing the deck (34) toward the extended position, as per claim 4.

However, Roesel fails to disclose wherein the mowing deck is coupled to the frame proximate the fore end; and

A motor rigidly coupled to the frame and drivingly connected to the mowing deck, so as to independently power the deck, as per claim 1; and

The motor coupled to the frame proximate one of the sides and the fore end, the mowing deck being coupled to the frame proximate the other of the sides, the motor powering the deck, as per claim 6.

Scarborough discloses a pull-behind mower wherein the auxiliary mower deck (26) is driven by a motor (100) rigidly coupled to the frame (12) and drivingly connected to the mowing deck (26), so as to independently power the deck, as per claim 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the motor of Scarborough on the mower of Roesel in order to isolate the auxiliary mower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the mowing deck to the frame proximate the fore end, the motor proximate a side and the fore end, and deck coupled to the other side since it has been held that rearranging of parts of an invention involves only routine skill in the art.

5. Claims 16-25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith '299 in view of Cowling.

Smith discloses a pull-behind mower for cutting ground vegetation, the mower comprising:

A frame (14) adapted to be coupled to a vehicle (12) and rollingly supported on the ground; and

A mowing deck (70) coupled to the frame (14) and operable to cut the vegetation when the deck (70) is in an engaged position proximate the ground;

The deck (70) being pivotable relative to the frame (14) on first and second distinct and intersecting pivot axes, the deck (70) being selectively pivotable on the second pivot axes between the engaged position and disengaged position when the deck (70) is pivoted upward away from the ground, as per claim 16; and

The deck (70) appearing to be pivotable through a second pivot angle of more than about 30 degrees when pivoted between the engaged and disengaged position, as per claim 17; and

The second pivot angle appearing to be more than about 45 degrees, as per claim 18; and

The deck (70) being pivotable relative to the frame (14) on the first pivot axis between an extended and retracted position, the first pivot axis being generally upright, the second pivot axis being at least substantially perpendicular to the first pivot axis, as per claim 20; and

The deck (70) appearing to be pivotable through a first pivot angle of more than about 20 degrees when pivoted between the extended and retracted positions, as per claim 21; and

The first angle appearing to be more than about 30 degrees, as per claim 22; and

A motor (tractor engine, not shown) coupled to the frame (14) and providing power to the deck (70), as per claim 23; and

A drive train (22) for drivingly coupling the motor to the deck (70) so that the motor powers the deck (70), the drive train (22) including drive shaft (46), at least a portion of the drive shaft (46) being independently rotatable relative to the frame and the deck on the first pivot axis, as per claim 24; and

The first and second pivot axes intersecting one another, the drive shaft (46) including a u-joint (32), the u-joint (32) being at least substantially centered on the intersection of the first and second pivot axes, as per claim 25.

However, Smith fails to disclose wherein the deck is lockable in the disengaged position, as per claim 16; and

A plurality of casters rotatably coupled to the deck and operable to at least partly support the deck on the ground when the deck is in the engaged position, the casters being removed from contact with the ground when the deck is in disengaged position, as per claim 19.

Cowling discloses a similar mower wherein the deck (12) is lockable in the disengaged position (see column 8, lines 25-42, and lines 51-58), as per claim 16; and

A plurality of casters (60) rotatably coupled to the deck and operable to at least partly support the deck on the ground when the deck is in the engaged position, the casters (60) being removed from contact with the ground when the deck is in disengaged position, as per claim 19.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the lockable deck and casters of Cowling on the device of Smith in order to keep the mower in a desired position.



*Allowable Subject Matter*

6. Claims 5, 12-15 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

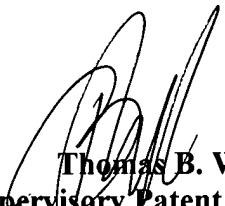
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

Art Unit: 3671

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
October 30, 2003